EXPLANATORY MEMORANDUM TO

THE PENSIONS INCREASE (COMMISSIONERS OF IRISH LIGHTS) REGULATIONS 2014

2014 No. 563

1. This explanatory memorandum has been prepared by HM Treasury and is laid before Parliament by Command of Her Majesty.

2. Purpose of the Instrument

2.1 These Regulations will come into force on 1 April 2014 and make provision to modify the application of the Pensions (Increase) Act 1971 ('the 1971 Act') in respect of some persons who will become members of the Principal Civil Service Scheme ('PCSPS') as a result of a bulk transfer on that date. That modification will take effect in respect of former employees of the Commissioners of Irish Lights (the general lighthouse authority with responsibility for management and maintenance of aids to navigation, and the provision of allied services, in and around Northern Ireland and the Republic of Ireland) whose pensions are currently increased either by reference to Irish public sector pay or in line with UK pension increases. It will ensure that previous pension increases to these deferred pensions and pensions in payment will be honoured, and that the move into the PCSPS will not cause increases to these pensions to be backdated across the board to a date prior to the transfer, thus creating a windfall for these members at extra cost to the Exchequer.

3. Matters of special interest to the Joint Committee on Statutory Instruments.

3.1 None

4. Legislative Context

4.1 The three general lighthouse authorities are listed in section 193 of the Merchant Shipping Act 1995 ('the 1995 Act'). The Commissioners of Irish Lights are the general lighthouse authority for "Northern Ireland and the adjacent seas and islands". They operate their own pension scheme, established under a power in section 214 of the 1995 Act, which is by analogy to the PCSPS. It is funded out of the General Lighthouse Fund established by section 211 of the 1995 Act.

4.2 The Commissioners of Irish lights are a body that pre-date the independence of the Republic of Ireland. They were established in the 1800s. Upon separation of the Republic of Ireland, Irish law made provision to retain them. They maintain a parallel legal existence in Irish law. The Commissioners of Irish Lights employ people to serve and maintain aids to navigation and provide allied services in both Northern Ireland and the Republic of Ireland.

4.3 In the UK, certain deferred pensions and pensions in payment are increased by orders made under section 59 of the Social Security Pensions Act 1995 ('the 1995 Act'). These increases apply to the PCSPS as it is listed in the 1971 Act as an 'official pension'. They take effect from the date that a pension 'begins' within the meaning of the 1971 Act.

4.4 In the past, pension increases in respect of employees of the Commissioners of Irish Lights on each side of the border have been dealt with differently. Some deferred and pensioner members (typically resident in Northern Ireland) have had their pensions increased in line with pension increase orders under the 1995 Act. Other deferred and pensioner members (typically resident in the Republic of Ireland) have had their pensions increased with reference to Irish public sector pay.

4.5 Pension increases in respect of the other two general lighthouse authorities (the Trinity House Lighthouse Service and the Commissioners of Northern Lights) are covered by the 1995 and 1971 Acts.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 Two Lords Commissioners of HM Treasury have made the following statement regarding human rights: "The Pensions Increase (Commissioners of Irish Lights) Regulations 2014 modify the application of the Pensions (Increase) Act 1971 to certain former employees of the Commissioners of Irish Lights with deferred pensions or pensions in payment. In our view, the provisions of this instrument are compatible with the Convention rights."

7. Policy background

7.1 It has been decided that, as part of wider public service pension reforms, all of the members of the Commissioners of Irish Lights pension scheme will be bulk transferred into the PCSPS on 1 April 2014. This will include active members, members with deferred pensions, and members with pensions in payment.

7.2 The effect of this instrument is confined to deferred and pensioner members of the Commissioners of Irish Lights pension scheme who are transferred into the PCSPS on 1 April 2014. It has a twofold effect. First, it will preserve the pension increases already applied to these pension rights prior to the date of transfer. Second, it will ensure that the pensions increase regime of the 1975 Act is not backdated across the board to a date prior to the transfer, thus duplicating those increases and creating a windfall for these members at extra cost to the Exchequer.

7.3 The Order provides that the pensions of deferred and pensioner members of the Commissioners of Irish Lights pension scheme whose pensions have been increased in line with Irish public sector pay will be deemed to 'begin' on the day after the date of transfer. This will enable the pensions increase regime of the 1975 Act to take effect from the day after the date of the transfer, and not be backdated before the date of the transfer. Accordingly, no pre-transfer increase will be duplicated.

7.4 The Order also provides that the pensions of deferred and pensioner members of the Commissioners of Irish Lights pension scheme whose pensions have been increased in line with orders made under the 1975 Act will be deemed to 'begin' on 8th April 2013. At the time of transfer, no pensions will have been increased under the 1975 Act regime since this date (an increase is planned to take effect shortly after the transfer). This is to enable these members to receive the full pension increase for the period 8th April 2013 to 1st April 2014 that they would have received had they not transferred to the PCSPS on 1st April 2013. Accordingly, all increases prior to 8th April 2013 will not be duplicated.

7.5 Active members will not be affected by this Order. This is because their pensions have not yet 'begun', and so pension increases do not apply to them.

7.6 Although the transfer is being handled by the Cabinet Office, HM Treasury is the Department with policy responsibility for the 1971 Act. HM Treasury and the Cabinet Office have worked together closely on the transfer to progress all the issues involved in it.

8. Consultation outcome

8.1 Consultations on the transfer, including this aspect, have been carried out by the Commissioners of Irish Lights.

9. Guidance

9.1 No guidance has been produced to accompany this instrument, the contents of which are self-explanatory.

10. Impact

10.1 No Impact Assessment has been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

10.2 The outcome of this legislation is first to effect a saving in administration for public sector bodies by enabling them to join existing pension arrangements and benefit from the support provided by the Cabinet Office, who are the scheme managers of the PCSPS, and second to ensure that pension rights already accrued are protected but increases are not inappropriately backdated at extra cost to the Exchequer.

11. Regulating small business

11.1 This instrument does not apply to small business.

12. Monitoring and review

12.1 Membership of the PCSPS and issues arising from it are subjects under constant review.

13. Contact

Ben Parker at HM Treasury Tel: 020 7270 5509 or e-mail benjamin.parker@hmtreasury.gsi.gov.uk can answer any queries regarding the instrument.